TESTIMONY PRESENTED TO THE
GOVERNMENT ADMINISTRATION and ELECTIONS COMMITTEE
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Linda Yelmini
Director of Labor Relations
Office of Policy and Management

Testimony Regarding Senate Bill No. 382

AN ACT CONCERNING THE OVERPAYMENT OF BENEFITS TO RETIRED STATE EMPLOYEES

Senator Musto, Representative Jutila and distinguished members of the Government Administration and Elections Committee. Thank you for the opportunity to provide you with testimony regarding **Senate Bill No. 382, An Act Concerning the Overpayment of Benefits to Retired State Employees.**

There is a concept in the common law known as "unjust enrichment" which, in simple terms, occurs when a person is paid money under a mistake of fact or law to which there is no entitlement, and the person is permitted to keep the money.

This Legislation seeks to codify the unjust enrichment concept into the State Employees Retirement Act where an audit within the Retirement Division has not revealed an overpayment within twenty-four months. The current statutory scheme permits the Retirement Commission to determine whether repayment of an overpayment would work an undue hardship upon a member or beneficiary, and waive that repayment. This occurs in cases where the person is without fault, and could not have been reasonably expected to detect the error. This is an adequate safeguard to insure that said payments can be waived when repayment would prove inequitable. Notwithstanding the current protections, this legislation attaches an arbitrary statute of limitations on the Retirement Division of two years for the overpayment to be discovered through an audit. The law in Connecticut provides a six year statute of limitations on written contract claims and claims of unjust enrichment. This proposed two-year statute of limitations appears to have no basis in law. It seeks to further burden an already overwhelmed group of employees, within the Retirement Division, whose taxing workload may have contributed to an error being made in the first instance.

This legislation ignores the Commission's obligation to protect the integrity of the retirement fund, and our collective fiduciary responsibility to the taxpayers of this State. Notwithstanding how large an overpayment may have been, it would inure to the benefit of the retiree by mere happenstance if an audit had occurred twenty-four months and one day after the receipt of the payments. In most cases, when a recipient of retirement benefits is advised of an overpayment, mutually agreeable repayment arrangements are made. If this legislation is passed, there would be no opportunity to seek a repayment. Thus, paying an excessive amount of money to an individual because of an administrative error.